



FOREIGN POLICY bulletin

AN ANALYSIS OF CURRENT INTERNATIONAL EVENTS

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Results of Castro's Visit

by Philip C. Newman

There is little doubt that Premier Fidel Castro's visit to the United States was a personal triumph for him, and on the whole has resulted in an improvement in relations between Cuba and the United States. He explained away and otherwise softened the impact of anti-United States sentiments attributed to him and his followers since his accession to power. At the same time he has seen the wisdom of forgiving and forgetting alleged sympathy and support for the Batista regime by several recent American ambassadors. In his characteristic fashion he directly appealed to public opinion in the United States in an effort to win its citizens over to his side. Obviously embarrassed by its failure to invite Castro officially, the Eisenhower Administration did all it could to legitimize his "unofficial" visit. But in spite of conciliation on both sides, several irritants, some political and others economic, remain to plague U.S.-Cuban relations and to alienate important sectors of American public opinion.

On the political side, there is a grave question whether Cuba can be called a democracy or whether it is at best a benevolent dictatorship. And history has shown that benevolence

can be removed at will by the dictator. To American observers it is not clear why Castro and his followers do not want to hold free elections now, since he is sure of winning, according to all expert appraisals. The executions of some 500 persons guilty of murder and other crimes under Batista have alienated liberal sectors of the American public. These sectors also opposed Batista and hoped that the successful Castro revolt meant return to a rule of law. Admittedly it is difficult for Castro and his supporters to remain calm after suffering for many years at the hands of Batista's army and secret police, and many of those executed may have richly deserved their fate. But, rightly or wrongly, most Americans distrust regimes which do not observe due process.

Castro has taken these factors into account. Public trials with a Roman circus atmosphere have ceased, and in his TV interview on "Meet the Press" on April 19 the Cuban premier stressed the fact that over 1,000 defendants have been exonerated.

Most important, Castro has backed away completely from any position of benevolent neutrality as between the U.S.S.R. and the United States. He now realizes that Cuba's

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economic ties with this country are so strong that a close political rapport is essential.

There is little doubt that in the future Cuba will be not only a symbol of hope, but also a source of solid assistance to antifascist groups in the Caribbean area. Haiti, the Dominican Republic and Nicaragua appear to be the key targets of these groups, and if rivalries reach the point of revolts and invasions, U.S.-Cuban relations are likely to be adversely affected by Cuban intervention in the affairs of other Latin American countries, as nearly happened in the case of Panama.

The economic problems which Castro faces will be even harder to solve than those of a political nature.

Cuba is heavily dependent on sugar exports and especially on the American market. Since American sugar prices are considerably higher than the world market, Cuba's share of United States sugar consumption is the most important determinant of its income and employment.

Until 1933 Cuba traditionally supplied almost half of United States sugar requirements. Since then a series of legislative restrictions to protect our domestic growers has cut Cuba's share of the market to 37 percent. Since Cuba has expanded acreage in two world wars to help the American war effort, it feels that it has not yet regained a fair share of our market. In recent years Russia has become interested in buying Cuban sugar and the Batista regime actually sold substantial quantities to Moscow. But Russia is unreliable as

a steady market, is producing a lot of sugar of its own and has little to sell Cuba in return.

Castro's Economic Program

In an interview with this writer, Dr. Rufo Lopez Fresquet, Cuba's finance minister, emphasized that the Castro regime wants expanded American investments and tourism. All of the tax-exemption and other incentive provisions passed by the Batista regime will be retained and even expanded. A no-double-taxation agreement is being negotiated with the United States Treasury Department. Any American company can organize a Cuban subsidiary as a base for tax-free operations outside the United States. Between 1953 and 1958 Cuba attracted foreign investment to the tune of over \$600 million, most of it American. At present, new investment is at a standstill because of political instability, but it is hoped that the pipeline will start flowing again soon.

American exporters, however, will find the Cuban market harder to crack. A new tariff schedule will go into effect in the future giving protection to light industry in Cuba. Under the new land reform program Cuban farmers will grow more and more food, previously imported from the United States. And American shipping will lose business as a result of a new bill which will require that 50 percent of Cuban imports and exports be carried by Cuban ships.

These steps will have a beneficial effect on Cuba's balance of payments and foreign exchange reserves, but

will diminish its importance as a market for certain American goods and services. However, imports of machinery and other capital equipment from the United States will probably increase as the industrialization program gathers momentum.

The Cuban Telephone Company and the Electricity Company, in which there are American interests, have not yet been nationalized—although a government interventor has been appointed for the former—and their rates are undergoing a reappraisal. It is doubtful that any American-owned industry other than these public utilities will be nationalized. However, the relations of Castro and labor, which has some Communist leaders, remains a problem.

The Castro regime stresses that it will establish public morality and honesty in politics. Officials emphasize that American businessmen will no longer suffer from graft and shakedowns, and gangsters in the gambling casinos will not be tolerated. Not the least of Cuba's troubles in the past has been the wholesale looting of the public treasury by each regime as it was driven out of office. If the Castro regime permits the Treasury to fatten up and public confidence in its officials in positions of trust to develop, it will have taken a long step toward prosperity, and thus to political stability.

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Can Big Four Succeed at Geneva?

More and more it looks as if the world is in for a series of East-West meetings—at both the foreign ministers' level and the summit. Of course much will depend on the outcome of the Geneva conference which opened on May 11 and any subsequent summit meeting. If either is a total fiasco, then presumably more East-West talk for some time would be pointless. However, it is going to take a real diplomatic disaster at Geneva to end this new essay in negotiation.

The reason for this is that even with the best good will and mutual trust in the world—which do not exist today—the world's problems are too complicated, too deep-seated, to solve in a week or a month or a summer of a year. The Big Four may refuse to agree; but it is doubtful if world opinion will permit them to stop talking. There are too many large stockpiles of atomic explosives, there is too much strontium 90 loose in the world and the surrounding atmosphere, to permit silence.

It would be a near disaster if East and West, at the foreign ministers' conference, failed to reach even procedural agreements. For this could mean no summit gathering, as the United States continues to insist—and therefore no more talking. But it would be just as disastrous, perhaps more so, if the Western foreign ministers were not to maintain a solid front in any negotiations with the U.S.S.R. It is a matter of elementary knowledge that Moscow's design is to separate the Western allies and break up the NATO alliance. There is no reason why the West should give aid or comfort to the Kremlin in this respect. It is no

secret, however, that the British, French and United States foreign ministers, assisted by their West German colleague, went into their conference with Soviet Foreign Minister Andrei A. Gromyko with unity only skin-deep.

Is West United?

No one is denying that the Western nations are united on such major principles as no appeasement, no surrender, no yielding on rights in Berlin, no unilateral disarmament or disengagement or demilitarization. But that is about the extent of their unity. They still differ as to how "flexible" they should be in negotiating with Moscow, how far to explore disengagement without becoming committed to it—by inference at least. It is more than possible that East-West talks will not get beneath this surface unity which holds the West together, and then no real damage will have been done. But at some point, either in the foreign ministers' talks or at the summit, the West may have to speak with unity in depth as well as breadth.

Of the four Western powers it is generally recognized that the British are the most flexible, the most ready to reach an agreement with Moscow, the most anxious to accept its promises. In contrast the French and Germans share the reputation of being the least flexible, the most rigid, and completely suspicious of the Russians.

The British, for example, have wanted to put the West's cards on the table and then ask the Russians to do the same. This has horrified Britain's allies, who have felt that to do this is to accept two strikes against the free world before the diplomatic

play is even started. The British have also felt that the West should avoid incidents or altercations with Moscow at this stage—even when it is in the right. Thus they had begged Washington to stop flying high-altitude air missions to Berlin, although agreeing that Washington has the right to do so. The United States first took the position that not to use the West's rights because of the Kremlin objections, just to avoid incidents, is the worst way to do business with the Russians, who would consider it a sign of weakness—but later suspended flights on April 29.

If John Foster Dulles were still Secretary of State, it is just possible that the story on Western unity at the Geneva parley might be different. By sheer force of character, prestige and leadership Mr. Dulles might have welded the four Western nations into a strong unified negotiating force. There is reason to believe, however, that the issues at stake and the disagreements among the Western allies were fast becoming too big even for Mr. Dulles. Christian A. Herter, it must be recognized, stepped into an impossible job at the worst possible moment.

The way the President went about announcing Mr. Herter's appointment did nothing to add to the new Secretary's stature. It is to Mr. Herter's credit that he weathered the resulting confusion with equanimity and poise. His ability to overlook slights at home is, as his conduct at Geneva suggests, equaled by his ability to study with serenity the proposals Moscow makes abroad. Most important for his mission, he enjoys the respect and support of Congress.

NEAL STANFORD



Should U.S. Support World Law?

DWIGHT D. EISENHOWER

By moving steadily toward the goal of greater freedom under law, for our own people, we shall be the better prepared to work for the cause of freedom under law throughout the world.

All peoples are sorely tired of the fear and the destruction and the waste of war. As never before, the world knows the human and material costs of war and seeks to replace force with a genuine rule of law among nations.

It is my purpose to intensify efforts during the coming two years in seeking ways to supplement the procedures of the United Nations and other bodies with similar objectives, to the end that the rule of law may replace the rule of force in the affairs of nations. Measures toward this end will be proposed later, including a re-examination of our own relation to the International Court of Justice.

RICHARD M. NIXON

Turning to the political area, we have now come far enough along in the great historic conflict between the free nations and the Communist bloc to know that negotiation and discussion alone will not necessarily resolve the fundamental issues between us. This has proved to be the case whether the negotiations took place through the very helpful processes of the United Nations, or at the conference table of foreign ministers, or even at what we now call the summit.

What emerges, eventually, from these meetings at the conference table

are agreements. We have made a great many agreements with the Soviet leaders from the time of Yalta and Potsdam. A major missing element in our agreements with the Soviet leaders has been any provisions as to how disputes about the meaning of the agreements in connection with their implementation could be decided.

Looking back at the first summit conference at Geneva, for example, we find that it produced an agreement, signed by the Soviet leaders, which elevated the hopes of the entire world.

Pacts With Russia Cited

It should be noted, however, that the President and the Secretary of State repeatedly warned both before and after the holding of the conference that success could be measured only in deeds. One of the announced purposes of the conference was to test the Soviet sincerity by the standard of performance.

The summit conference has since been characterized by some as a failure, but in terms of agreements, as such, it was a success. . . .

The crucial question remained—how was the agreement to be effective when the parties disagreed as to what it meant? This is typical of a problem that can arise wherever any agreement is entered into between nations.

In looking to the future what practical steps can we take to meet this problem? I will not even suggest to you that there is any simple answer

to this question. But I do believe there is a significant step we can take toward finding an answer.

We should take the initiative in urging that in future agreements provisions be included to the effect: (1) that disputes which may arise as to the interpretation of the agreement should be submitted to the International Court of Justice at the Hague; and (2) that the nations signing the agreement should be bound by the decision of the Court in such cases.

Such provisions will, of course, still leave us with many formidable questions involving our relationships with the Communist nations in those cases where they ignore an agreement completely apart from its interpretation. But I believe this would be a major step forward in developing a rule of law for the settlement of political disputes between nations and in the direction all free men hope to pursue.

If there is no provision for settling disputes as to what an international agreement means and one nation is acting in bad faith, the agreement has relatively little significance. In the absence of such a provision an agreement can be flagrantly nullified by a nation acting in bad faith whenever it determines it is convenient to do so.

While this proposal has not yet been adopted as the official United States position, I have discussed it at length with Attorney General [William P.] Rogers and with officials of the State Department and on the basis of these discussions I am con-

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The following article, "Mr. Nixon's Nostrum," is reprinted from the feature entitled, "The Week," in the April 25, 1959 National Review, edited by William F. Buckley, Jr.

NATIONAL REVIEW

Mr. Richard Nixon's speech before the Academy of Political Science showed that high degree of political unrealism that is the curse of the West, in its defense of itself against Communism. The vice-president of the United States, whose insights into the "Communist problem" have often proved penetrating, addressing the nation's top political scientists, initiated a drive to give to the International Court of Justice, now the principal judicial organ of the United Nations, authority to adjudicate disputes arising between nations out of disagreements as to the meaning of existing treaties.

Mr. Nixon volunteered an unprofitable illustration. The difficulty between the Soviet Union and the United States, he said, exists not so much because there is an absence of formal agreements between the two nations, but because differences arise as to the *meaning* of the agreements. Consider, said Mr. Nixon, the summit conference at Geneva in 1955. There are those who think of it as a failure; yet "in terms of agreements as such it was a success. Those who participated in the conference," Mr. Nixon explained, "including Mr. Khrushchev, agreed at Geneva on a sound method for dealing with the German problem—the very same problem from which he has now fathered the new crisis at Berlin. But while the agreement seemed clear, as events subsequently developed, Mr. Khrushchev's understanding of its meaning was ostensibly [manifestly?] different from ours."

Mr. Nixon's solution: bring differences over the meaning of an agreement before the International Court for a settlement binding on both parties.

Nixon—Waste of Time

Mr. Nixon's proposal is a waste of time for the reason that it advances as relevant to the solution of our difficulties, judicial proceedings to which Communists are in principle indifferent. Any revolutionary worth his salt will eat Rule By Law for breakfast. The difficulty with Khrushchev over Berlin does not trace to his having misunderstood the meaning of the Geneva agreement but to his judging it no longer serviceable to the revolution, any more than he has found serviceable the 41 treaties with us which, at last count, the Soviet Union has unabashedly broken.

The International Court of Justice is composed of 15 men elected by the General Assembly and the Security Council of the UN, and so reflects the composition of the UN, which these days is split between Communist and non-Communist countries. The idea that one could approach such a court in any dispute in which the Soviet Union is involved and get other than a political decision, is absurd. And the suggestion that if the Court's decision were against the Communists the Soviet Union would submit to it is, once again, unrealistic. The implicit notion that there would be a residual advantage to the West in having the majority of the Supreme Court of the UN go on record as siding with

us next time the Soviet Union tosses over a treaty, is, still again, naive; for the UN has not, and will not accumulate moral force, so long as it numbers Communists among its constituents. And on the negative side, there would always be at least a minority of "judges" ruling solemnly in favor of the most recent Communist abuse of the law. It does no service to the law to increase the authority of any judicial body in which Communists are permitted to go about dressed as judges.

More than a waste of time, we regret to say. For Mr. Nixon tossed into the proposal a putative willingness by the United States to repeal the Connally Act of 1946 and be prepared, hereafter, to surrender to the International Court the authority to decide whether or not complaints based on a treaty come under its jurisdiction. Conceivably a suit could arise in which some foreign government, appealing to some abstraction or other in the UN Treaty, or Covenant of Human Rights, might some day ask the International Court to set aside the United States immigration or education laws. To surrender in an age of *Machtpolitik* the technicality by which we can, in the last analysis, assert our sovereignty over our own affairs is to stand guard over a shrine after ostentatiously tossing away one's rifle.

In a word: it does no service to the cause Mr. Nixon seeks to serve to go about solemnly advancing nice parliamentary devices for settling outstanding differences with the Soviet Union. To do so is to give life to the illusion that we are dealing with a law-abiding nation, concerned for the peaceful evolution of the affairs of the world. If anyone puts on a costume and participates in the sham, who will be left knowing that is what it is?

Nixon

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vinced that it has merit and should be given serious consideration in the future.

The International Court of Justice is not a Western instrumentality. It is a duly constituted body under the United Nations Charter and has been recognized and established by the Soviet along with the other signatories to the Charter.

U.S. Should Set Example

There is no valid reason why the Soviets should not be willing to join with the nations of the free world in taking this step in the direction of submitting differences with regard to interpretation of agreements between nations to a duly established international court and thereby further the day when the rule of law will become a reality in the relations between nations. . . .

We should be prepared to show the world by our example that the rule of law, even in the most trying circumstances, is the one system which all free men of good will must support.

In this connection it should be noted that at the present time in our own country our system of law and justice has come under special scrutiny as it often has before in periods when we have been engaged in working out basic social relationships through due process of law.

It is certainly proper for any of us to disagree with an opinion of a court or courts. But all Americans owe it to the most fundamental propositions of our way of life to take the greatest care in making certain that our criticisms of court decisions do not become attacks on the institution of the court itself.

Mr. Khrushchev has proclaimed time and again that he and his associates in the Kremlin, to say nothing

of the Soviet peoples, desire only a fair competition to test which system, communism or free capitalism, can better meet the legitimate aspirations of mankind for a rising standard of living.

The world knows that this is the only kind of competition which the free nations desire. It is axiomatic that free people do not go to war except in defense of freedom. So obviously we welcome this kind of talk from Mr. Khrushchev. We welcome a peaceful competition with the Communists to determine who can do the most for mankind.

Mr. Khrushchev also knows, as we do, that a competition is not likely to remain peaceful unless both sides understand the rules and are willing to have them fairly enforced by an impartial umpire. He has pointedly reminded the world that Soviet troops are not in Germany to play skittles. The free peoples passionately wish that Mr. Khrushchev's troops as well as their own, could find it possible to play more skittles and less atomic war games. But we remind him that his troops could not even play skittles without rules of the game.

If the Soviets mean this talk of peaceful competition, then they have nothing to fear from the impartial rules impartially judged, which will make such peaceful competition possible.

The Soviet leaders claim to be acutely aware of the lessons of history. They are constantly quoting the past to prove their contention that communism is the way of the future. May I call to their attention one striking conclusion that is found in every page of recorded history.

It is this: the advance of civilization, the growth of culture and the perfection of all the finest qualities of mankind have all been accompanied by respect for law and justice

and by the constant growth of the use of law in place of force.

The barbarian, the outlaw, the bandit are symbols of a civilization that is either primitive or decadent. As men grow in wisdom, they recognize that might does not make right; that true liberty is freedom under law; and that the arrogance of power is a pitiful substitute for justice and equity.

Hence once again we say to those in the Kremlin who boast of the superiority of their system:

"Let us compete in peace, and let our course of action be such that the choice we offer uncommitted peoples is not a choice between progress and reaction, between high civilization and a return to barbarism, between the rule of law and the rule of force."

In a context of justice, of concern for the millions of men and women who yearn for peace, of a constant striving to bring the wealth abounding in this earth to those who today languish in hunger and want—in such a context, competition between the Communist world and the free world would indeed be meaningful.

Then we could say without hesitation:

Let the stronger system win, knowing that both systems would be moving in a direction of a world of peace, with increasing material prosperity serving as a foundation for a flowering of the human spirit.

We could then put aside the hatred and distrust of the past and work for a better world. Our goal will be peace. Our instrument for achieving peace will be law and justice. Our hope will be that, under these conditions, the vast energies now devoted to weapons of war will instead be used to clothe, house and feed the entire world. This is the only goal worthy of our aspirations. Competing in this way, nobody will lose, and mankind will gain.



Would World Law Avert War?

Mankind's age-old dream of a world at peace under the rule of law was stirred anew by Vice President Richard M. Nixon in his April 13 address to the Academy of Political Science in New York.

The vice-president proposed that the International Court of Justice, an organ of the United Nations established in 1945 as successor to the Permanent Court of International Justice, an organ of the League of Nations, be made the arbiter of disputes arising under future East-West agreements and urged that signatories to future treaties agree to be bound by the court's interpretation.

Mr. Nixon's proposal, presaged by a statement about world law by President Eisenhower in his January 9 State of the Union Message, is regarded as a trial balloon to test the reaction of public opinion. In the past, attempts by American leaders to accept the jurisdiction and decisions of the International Court without qualifications have been opposed by some who, like Senator John W. Bricker of Ohio, feared that this would prove a limitation on the country's national sovereignty, and by others, among them spokesmen for the South, who contended that the issue of segregation, regarded as a purely domestic matter, would thus come within the jurisdiction of an international tribunal.

The vice-president, in his New York address, said that while his suggestion for making the International Court the umpire of treaty disputes was not yet the official United States position, he had discussed it at length with Attorney General William P. Rogers and with officials of the State Department and

was "convinced that it has merit and should be given serious consideration in the future."

Declaring that the United States possesses military power fully adequate to sustain its policies, Mr. Nixon said that it is not enough simply to preserve "the balance of terror. . . . If this sword of annihilation is ever to be removed from its precarious balance over the head of all mankind, some more positive courses of action than massive military deterrence must somehow be found." The conflict between the free nations and the Communist bloc has shown that negotiations and discussions alone would not necessarily resolve fundamental issues. This has proved the case, he declared, whether the negotiations have been carried on through the United Nations, at foreign ministers' conferences or at summit meetings such as the one held in 1955.

The vice-president pointed out that after Yalta, Potsdam and Geneva, Russia's understanding of agreements achieved at the conferences had proved vastly different from that of the United States. An important step toward the maintenance of peace would be taken if in the future disputes about the interpretation of treaties were submitted to the International Court.

While the vice-president did not set forth the details of the recommendations that the Administration would shortly make with respect to treaty reservations by the United States, it is believed that Washington will attempt to eliminate the so-called Connally amendment. This 1946 amendment, named for its author, the late Senator Tom Connally,

Democrat of Texas, provided that the United States in the Senate resolution accepting the compulsory jurisdiction of the Court, would not recognize this jurisdiction in "disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America as determined by the United States of America."

'Domestic Jurisdiction'

This far-reaching reservation severely limits the jurisdiction of the Court. It was invoked by the United States in 1957 in denying that the Court had jurisdiction in the Interhandel case. This case involved Switzerland's request that the Court order the United States to hand over \$200 million in shares of the General Aniline and Film Corporation, seized by Washington as enemy property in World War II, to the Interhandel Company, a Swiss firm. The Court ruled in favor of the United States in March 1959 on technical grounds, but some of the judges declared that the suits involved an issue of international law.

Of the 82 members of the UN, 33 others, like the United States, have accepted the compulsory jurisdiction of the Court, but most of them have also attached reservations. (France and Pakistan have made reservations similar to that of the United States.) The U.S.S.R. has refused to accept the Court's compulsory jurisdiction.

The "basic philosophy" of Mr. Nixon's proposal was endorsed by UN Secretary General Dag Hammarskjöld. A few days earlier delegates to the American Bar Association's second conference on the

search for peace through law at Charlotte, North Carolina, under the leadership of Charles S. Rhyne, agreed that the role of the World Court should be expanded and urged the establishment of national and regional branches of the Court, which sits at The Hague. Some, however, expressed pessimism about the prospect that the United States would relinquish a measure of national sovereignty for this purpose.

Those who favor strengthening the World Court as an organ of the international community support the suggestions of President Eisenhower and Vice-President Nixon to expand the Court's jurisdiction. They believe that it is impossible to talk about international "morality" or invoke "the rule of law" against an aggressor as long as the world community remains at its present stage of development. Today, the world community is like a frontier town in the Wild West, with every nation claiming to be a law unto itself and carrying its own guns (or nuclear bombs) to defend its life, its honor and its property. Such international law as exists is fragmentary and covers primarily such fields as business relations and maritime cases.

Thus the international community lacks the basic agencies of an organized society—a legislature to adopt laws, an independent judiciary with authority to decide when laws

have been violated and a police force to carry out the Court's decisions. Whenever it has been suggested in the past that such institutions should be developed, opponents have expressed fears that they would lead to world government and extinction of national sovereignty.

Assuming, however, that the World Court could be strengthened by the abandonment of existing national reservations to its jurisdiction and acceptance of its jurisdiction by the U.S.S.R., would this mean that the danger of war could be lessened?

The next *Headline Series*—May-June—will be: "Africa: World's Last Frontier," by John Scott.

It is conceivable that the Court could reduce many causes of tension between nations by interpretation of treaty provisions which produced conflicts. However, a basic problem would remain. Would the Court be restricted to issues which are "justiciable"—that is, issues which are matters liable to a trial in a court of justice? Or could it pass judgment on "political" issues, which involve a vast variety of psychological, social, economic and other problems that create profound frustrations and hostilities among nations and call for settlement on other than legal grounds?

To take a problem which does not directly involve the East-West struggle, let us assume that France were ready to waive its jurisdiction over the Algerian war and permit its dispute with the Algerians, now regarded as a domestic matter, to be submitted to the Court? Would the problems at stake between France and Algeria, between the French settlers and the Muslim population, be susceptible of a settlement in court? Or do we urgently need a greater strengthening and refining of the political machinery of the international community if clashes of national interests are to be resolved under "world law" and on a basis of international "morality?" Even if the U.S.S.R. should vanish tomorrow, there would still be profound disagreements between non-Communist countries about international law issues thoroughly discussed by Grotius and his successors, such as the use of force (at Suez) and recognition of governments (in the case of Peiping). The British political scientist, Harold Laski, used to say that the operation of a democratic society depends on a consensus of its people about basic issues, no matter how much they might differ about details. The achievement of such a consensus is today the fundamental task of the international society.

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